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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,727	12/28/2001	Howard Scott Forstrom	0918.0026C	4109

27896 7590 11/25/2005

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EXAMINER
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SZYMANSKI, THOMAS M

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/028,727	FORSTROM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thomas Szymanski	2134	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Claims 1-34 have been examined.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 - 6 and 8 – 34 are rejected under 35 U.S.C. 102(a) as being anticipated by Stone et al European Patent No. 1098522.

4. Regarding Claim 1: generating a watermark based on an attribute of a source unit (Fig 1, pg 2 lines 5-31, abstract) the watermark within the system of Stone et al is generated based upon attributes of the source and is represented either directly or indirectly by code generated based on the attributes, in this specific case the ownership is shown to be the source of the material.

Combining the watermark with the data stream (pg 2 line 8)

Transmitting the combination (pg 3 lines 9-10, fig 1 p717)

5. Regarding Claims 2 and 5: The attribute corresponds to a capability (Table 1, Fig 1, pg 2 lines 5-14) The different parts of the label represent many different capabilities of the system.

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6. Regarding Claims 3, 6, and 9: the attribute is a type of voice recorder, source unit revision indicator, source unit identifier (Table 1, pg 2 lines 5-6) The separate parts of the label identify all of these features.

7. Regarding Claim 4: Watermark is generated based on a plurality of attributes (Table 1) Since the watermark is generated based on the label of table 1 it can be seen that many attributes are correlated therewith.

8. Regarding Claim 8: Compressing the data stream (pg 3 lines 9-10) Stone et al states that the utilizer 717 implements the watermarked data stream by transmission or any other possible means. Through the transmission of such a format the data would be compressed as provided for by Stone et al.

Detecting capability of source unit (Table 1) The details of the source of the data are provided to the destination via the affixed information.

Generating a signature based on capability and applying as a watermark (Fig 1, pg 2 lines 5-15) as the applicant has acted as their own lexicographer to define a signature as defined in lines 7-8 of page 5 of the specification Stone et al provides for placement of the attributes within the data as a manner of watermarking the data thus according to MPEP 7.34.02 the claim is anticipated.

9. Regarding Claim 10: applying the signature to masked non-critical fields (pg 7 lines 16-19, 37-40, 47-54) Stone et al provides for embedding the watermark within the data so that it may be imperceptible as such not modifying any critical fields of data, further Stone et al states that the watermark can be embedded within a header or data fields of the given stream. The methods used to insert the watermark by way of it being

imperceptible constitute a form of masking the data within the stream by applying the bits in a mask format to the data stream.

10. Regarding Claim 11: watermark is contained in the multimedia content (pg 7 lines 16-19) As stated by Stone et al the watermark may be contained within the multimedia content.

11. Regarding Claim 12: Digital watermark (pg 7 line 11) The watermark is within the application of digital media thus it must be of a digital nature.

12. Regarding Claims 13-21: A method of receiving the watermarked data and determining the attributes of said data (Fig 1, pg 2 lines 11-14) As is necessary within any such system for the basic functionality to be possible there is a means for the reception and use of the produced data within which the system functions as necessary within all basic features such as determination and negotiation of the protocols necessary for the produced data as is necessary for the decryption and implementation to be viable, otherwise the system would not function upon the initial method.

13. Claims 22-34 are an apparatus implementation of claims 1-21 and are rejected on the same grounds as claims 1-21.

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

15. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stone et al European Patent No. 1098522 as applied to claim 1 above, and further in view of Kari et al Publication No. WO 97/48212.

16. Regarding Claim 7: Stone et al teaches a system for the watermarking of a compressed data stream based upon attributes but fails to teach the use of a particular algorithm for which identification is transmitted with the watermark.

17. However, Kari et al teaches a system (pg 4 lines 4-21) for the transmission of compressed data with an identifier for identification of one of a plurality of possible algorithms used to compress the given data stream.

18. It is desirable within any system to provide for means of increased processing speed and efficiency while maintaining a high level of security. The implementation of such a system so as to avoid bottlenecks (Kari et al pg 1 lines 30-35) and maintain security is desirable.

19. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to combine the system of Kari et al with that of Stone et al for the advantages of improved transmission time and performance so as to avoid possible bottlenecks that may be encountered while maintaining the necessary security of the system through the implementation of a plurality of possible compression algorithms.

***Response to Arguments***

20. Applicant's arguments filed 9/22/2005 have been fully considered but they are not persuasive.

21. The disclosure of the device and attributes related to the device corresponding to the origin of the transmitted data within which the watermark occurs, as described within the claim language of the applicant is anticipated by the Stone's reference. The indication of the ownership or source and additionally, information such as version number, which relates to the manner of production of the data, as well as the creation method, even further anticipates a source such as that disclosed by Stone. The indication by the applicant that the disclosure of capabilities of the source and the source itself not being anticipated by Stone is clearly incorrect as noted by the indication of table 1 within the reference and the previous recitation of the ownership being included within the watermark. As stated the amended claim language does not avoid such a reference as Stone et al.

22. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

23. Claim 7 as stated is the provision of compressing the data stream and including an attribute for the identification of such compression. The reference of Kari et al

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provides for the exact language of the claim as can be anticipated by abstract and other previously noted passages.

### ***Conclusion***

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Szymanski whose telephone number is 571-272-8574. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 571-272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMS

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